

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

FILED
SCRANTON

DEC 10 2013

SCOTT NJOS,

Plaintiff,

v.

BUREAU OF PRISONS, et al.,

Defendants.

CIVIL ACTION NO. 3:12-CV-1251

(Judge Kosik)

PER  DEPUTY CLERK

MEMORANDUM AND ORDER

AND NOW, THIS 10th DAY OF DECEMBER, 2013, IT APPEARING TO
THE COURT THAT:

(1) Plaintiff, Scott Njos, a prisoner confined at the United States Penitentiary, Lewisburg, Pennsylvania, filed the instant civil rights action on June 29, 2012;

(2) The action is currently assigned to Magistrate Judge Karoline Mehalchick for Report and Recommendation;

(3) Pending before the court are two motions (Docs. 38 and 51) which request summary judgment and a ruling on the summary judgment motion;

(4) On November 6, 2013, the Magistrate Judge issued a Report and Recommendation (Doc. 52) wherein she recommended that the plaintiff's motion for summary judgment (Doc. 38) be denied as premature without prejudice and the motion requesting a ruling (Doc. 51) be denied as moot;

(5) Petitioner has failed to file timely objections to the Magistrate Judge's Report and Recommendation;

AND, IT FURTHER APPEARING THAT:

(6) If no objections are filed to a Magistrate Judge's Report and Recommendation, the plaintiff is not statutorily entitled to a de novo review of his claims. 28 U.S.C.A. §636(b)(1)(C); Thomas v. Arn, 474 U.S. 140, 150-53 (1985).

Nonetheless, the usual practice of the district court is to give "reasoned consideration" to a magistrate judge's report prior to adopting it. Henderson v. Carlson, 812 F.2d 874, 878 (3d Cir. 1987);

(7) We have considered the Magistrate Judge's Report and we concur with her recommendation;

(8) After reviewing the motions filed by plaintiff, we agree with the Magistrate Judge that plaintiff's motion for summary judgment is premature and the motion requesting a ruling should be denied as moot.

ACCORDINGLY, IT IS HEREBY ORDERED THAT:

(1) The Report and Recommendation of Magistrate Judge Karoline Mehalchick dated November 6, 2013 (Doc. 52) is **ADOPTED**;

(2) The plaintiff's motion for summary judgment (Doc. 38) is **DENIED** as premature without prejudice and the motion requesting ruling (Doc. 51) is **DENIED** as moot; and

(3) The above-captioned action is remanded to the Magistrate Judge for further proceedings.



Edwin M. Kosik

United States District Judge